

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Eugene E Kirk**

Docket No. **266537**

L.C. No. **04-005199**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal, motion for immediate consideration, and motion for peremptory reversal filed November 15, 2005 are DISMISSED because appellant failed to file the application within 12 months of the July 27, 2004 judgment of sentence and neither of the two exceptions found in MCR 7.205(F)(4) was satisfied. In particular, the first exception was not satisfied because the application was not filed within 21 days of the October 20, 2005 order denying the motion for resentencing. Filing does not occur until the application is received. See *Walker-Bey v Department of Corrections*, 222 Mich App 605 (1997).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 18 2006

Date

Sandra Schultz Mengel
Chief Clerk